

To: Committee for the Study of Electronically Delivered Products

From: The Department of Revenue

Date: April 16, 2008

Subject: **European Union's (EU) taxation and sourcing of digital products**

Since July 1, 2003, the EU applies its value-added tax (VAT) to electronically delivered products. A VAT is a consumption tax set by each country, which is currently between 15% and 25%. For consumption purposes, all sales of goods and services provided via the Internet are characterized as "supplies of service" instead of "supplies of goods." The EU's characterization of electronically delivered products such as music, movies, and books as services does not impact the taxability of electronically delivered products, because both goods and services are generally subject to the VAT. However, it does impact how digital goods are sourced for tax purposes. Generally, supplies of goods use origin sourcing and supplies of services use destination sourcing.

EU Supply of Services Sourcing Table

	EU Seller		Non-EU Seller	
	Origin or Destination	VAT	Origin or Destination	VAT
EU Business Buyer	Destination	Yes	Destination	Yes
EU Non-Business Buyer	Origin	Yes	Destination	Yes
Non-EU Buyer	Destination	No	N/A	No

The EU's practice of having a different sourcing rule for products delivered from inside the EU from products delivered from outside the EU would likely violate the Commerce Clause if applied to transactions between states.

Place of Taxable Transaction for Supply of Services Table

Origin	Destination
<ul style="list-style-type: none">• Where the supplier has established his business• Where the supplier has a fixed establishment from which the service is supplied• Where the supplier has a permanent address or usually resides	<ul style="list-style-type: none">• Where the customer has established his business• Where the customer has a fixed establishment to which the service is supplied• Where the effective use and enjoyment of the service takes place